

REMARKS/ARGUMENTS

This is in response to the Office Action dated September 8, 2005. Claims 1-34 are pending.

The specification on page 1 has been amended as suggested by the Examiner, so as to update parent information.

While applicant does not agree with the numerous obviousness-type double patenting rejections, a terminal disclaimer has been filed herewith in order to render them moot and to expedite prosecution.

Claims 1, 3-7, 9-15, 17-22 and 24-34 stand rejected under 35 U.S.C. Section 103(a) as being allegedly unpatentable over Glaser in view of Depauw. This Section 103(a) rejection is respectfully traversed for at least the following reasons.

Claim 1 requires a second layer comprising zinc oxide located over and contacting the layer comprising the oxide of NiCr. The Office Action admits that Glaser fails to disclose or suggest this feature. In particular, Glaser merely discloses, from the glass substrate outwardly, a layer stack portion of Ag/NiCr/SnO₂/Bi₂O₃. Thus, Glaser clearly fails to disclose or suggest the aforesaid feature of claim 1.

Recognizing this flaw in Glaser, the Office Action cites to Depauw. Depauw discloses the use of zinc oxide over a titanium or stainless steel contact layer. The Office Action then contends that it would have been obvious to have replaced the tin oxide layer of Glaser with the zinc oxide layer of Depauw.

While applicant disagrees that there is any prima facie case of obviousness in this respect, the clear *unexpected results* associated with the invention of claim 1 rebut any possible prima facie case of obviousness. For example, the instant specification explains that the use of a layer

comprising zinc oxide located over and contacting the layer comprising the oxide of NiCr (which is over and contacting an IR reflecting layer) unexpectedly and surprisingly results in higher visible transmission, improved thermal stability upon heat treatment, lower sheets resistance, and lower emissivity. E.g., see paragraphs [0009], [0010], [0018], [0030], [0031] and [0046] of the instant specification. Accordingly, it is respectfully requested that the Section 103(a) rejection based on Glaser and Depauw be withdrawn.

The Section 103(a) rejections based on (a) Hartig and Depauw, and (b) Lemmer and Depauw, should likewise be withdrawn. In particular, while applicant disagrees that there is any prima facie case of obviousness in these respects, the *unexpected results* associated with the invention of claim 1 rebut any possible prima facie case of obviousness. For example, the instant specification explains that the use of a layer comprising zinc oxide located over and contacting the layer comprising the oxide of NiCr (which is over and contacting an IR reflecting layer) unexpectedly and surprisingly results in higher visible transmission, improved thermal stability upon heat treatment, lower sheets resistance, and lower emissivity. E.g., see paragraphs [0009], [0010], [0018], [0030], [0031] and [0046] of the instant specification. Accordingly, it is respectfully requested that the other Section 103(a) rejections also be withdrawn.

The inventions of claims 15, 30, 32, and 34 also have unexpected results associated with the use of the claimed layer comprising zinc oxide. E.g., see paragraphs [0009], [0010], [0018], [0030], [0031] and [0046] of the instant specification. Any alleged prima facie case of obviousness is rebutted. Accordingly, it is respectfully requested that the Section 103(a) rejections be withdrawn as to these claims as well.

Claim 34 stands rejected under Section 102(b) as being allegedly anticipated by Depauw. This Section 102(b) rejection is respectfully traversed for at least the following reasons. Depauw

discloses the use of zinc oxide over a titanium or stainless steel contact layer. However, Depauw does not disclose or suggest a layer comprising zinc oxide located over and contacting a layer comprising an oxide of Ni and/or Cr as called for in claim 34. Thus, it is respectfully requested that this Section 102(b) rejection be withdrawn.

All claims are believed to be in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

Respectfully submitted,

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